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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Confirmation No. 5835**  
Gerd MAROWSKY et al. : Docket No. 2000\_0964A  
Serial No. 09/601,484 : Group Art Unit **2851**  
Filed August 3, 2000 : Examiner Rodney Evan Fuller

METHOD AND DEVICE  
FOR MEASURING LUMINESCENCE

RECEIVED  
OCT 30 2003  
TECHNOLOGY CENTER 2800  
**RESPONSE UNDER 37. CFR 1.116**  
**EXPEDITED PROCEDURE**  
**EXAMINING GROUP 2800**

**REQUEST FOR RECONSIDERATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

THE COMMISSIONER IS AUTHORIZED  
TO CHARGE ANY DEFICIENCY IN THE  
FEE FOR THIS PAPER TO DEPOSIT  
ACCOUNT NO. 23-0975.

Sir:

In response to the final Office Action of July 28, 2003, reconsideration and further examination are requested.

**REMARKS**

Claims 1-3 and 7-10 have been rejected under 35 U.S.C. §102(b) as being anticipated by Herron (US 5,677,196). Claims 4-6 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Herron in view of Kraus (US 6,198,869).

These rejections are respectfully traversed for the following reasons.

Claim 1 is patentable over Herron, since claim 1 recites a method for exciting and determining a luminescence in an analyte sample which is located in contact with a waveguiding layer of an optical layer waveguide, the method comprising generating the luminescence by non-evanescent excitation in a volume of the analyte sample as luminescence radiation; guiding the luminescence radiation generated in an immediate proximity of a surface of the waveguiding layer to a measuring device after the luminescence radiation penetrates the waveguiding layer;